

DETAILED ACTION

Examiner's Statement of Reasons for Allowance

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 04/15/2010 has been entered.

2. Claims 51-58 and 61 are pending and at issue.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Interview Summary

3. Examiner telephoned Applicant's Representative on June 22, 2010 to request clarification of the declaration filed on 04/13/2010 with respect to Exhibit A and especially Exhibit B and for clear identification of an α -aminoanthraquinone quencher, as claimed. Further discussion followed on June 25, 2010. Applicant's Representative subsequently submitted an additional declaration filed on 06/25/2010 with clarification

that IB3.1, which is an abbreviation for "Iowa Black 3.1" and which compound is documented in Exhibits A and B, is an α -aminoanthraquinone quencher as claimed.

Declarations are Sufficient

4. The declarations filed on 04/13/2010 and 06/25/2010 under 37 CFR 1.131 are sufficient to overcome the May et al. (May 6-8, 2002) reference.

Notice of References Cited

5. In searches of public records conducted for this allowance, the following two relevant documents were obtained: i. PR Newswire (regarding the TIDES conference held May 6-8, 2002 where the May et al. reference was presented) and ii. email thread from Senior Librarian Jenkins of the USPTO (regarding the TIDES conference, last email of March 18, 2010). Although within document ii Manager Smith of Informa Service Inc. conveys to Senior Librarian Jenkins: "I am sorry but the abstracts for the posters were not made available to public" for the 2002 TIDES Conference; document i from PR Newswire relays that the 2002 TIDES Conference was an "... international event specifically designed for manufacturing and drug development scientists and executives" and thus indicates that the conference was open to the public. Regardless, the declarations by Applicant overcome the May et al. reference (May 6-8, 2002 presented at the 2002 TIDES conference), making moot this apparent conflict of public versus non public disclosure.

Claims Allowed

6. Claims 51-58 and 61 are allowed.

The following is an examiner's statement of reasons for allowance. No prior art was found which teaches or fairly suggests methods of detecting target nucleic acid sequences with a pair of: (1) a quencher which is an α -aminoanthraquinone and (2) a fluorophore, through reduction of fluorescence energy transfer or through reduction of ground state quenching.

The closest prior art found was May et al. (May 6-8, 2002 submitted by Applicant's on the Information Disclosure Statement filed on 04/13/2010, a previous disclosure being unclear with regard to the date of the reference). The declarations have overcome this now properly submitted reference, as given above.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

7. Claims 51-58 and 61 are allowed.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark Staples whose telephone number is (571) 272-9053. The examiner can normally be reached on Monday through Thursday, 9:00 a.m. to 6:00 p.m.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Benzion can be reached on (571) 272-0782. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Mark Staples/
Primary Examiner, Art Unit 1637
June 30, 2010